

## FALSE STAMPS, BRANDS, LABELS, &c.

[To accompany Bill H. R. No. 330.]

MAY 18, 1860.

Mr. MOREHEAD, from the Committee on Commerce, made the following

### REPORT.

*The Committee on Commerce, to whom was referred a bill and sundry memorials in relation to the use of false stamps, brands, labels, and trade marks, beg leave to report:*

That the evil complained of by the memorialists is one of growing magnitude and injurious consequences to society, requiring a legislative remedy.

The rights of manufacturers, merchants, mechanics, and tradesmen to the exclusive use of the stamps, brands, moulds, labels, and trade marks used by them to distinguish the products of their own industry and skill, or the qualities of the articles in which they deal or trade, is recognized by all enlightened communities and deemed worthy of just protection by judicial tribunals of the highest character in this and other countries.

The advantages of such provisions are twofold. They secure to the meritorious mechanic, manufacturer, merchant, or tradesman the just advantage that may be acquired by his own skill and integrity, or the superior quality of the article which he produces or sells, and it also affords a means of judgment to the public in respect to the quality of the articles purchased. Hence courts, especially in late years, have enforced a legal liability against persons fraudulently using false stamps, brands, moulds, labels, and trade marks, and courts of equity have interfered to restrain such use. But the existing remedies are altogether inadequate, even for the protection of individuals whose trade marks are infringed, because such party can only recover at law the actual damage proved, which seldom or never bears any proportion to the injury suffered, and the remedy in equity very seldom can be applied for until the injury is consummated. The public, who, as purchasers, are defrauded, have no remedy.

In many cases courts have expressed regret at their inability in the present state of the law to visit an adequate measure of punishment on the offence.

The hope of gain stimulates fraudulent and designing persons to

encounter the risk incurred of an action for damages by the persons whose trade mark is counterfeited, and a demoralizing practice is thus encouraged by its exemption from punishment.

The encouragement of the useful arts and the just protection of trade is one of the principal objects of just governments and is a constitutional duty imposed on Congress. To this end patents are granted and exclusive privileges conferred on inventors. To encourage and secure a just reward to superior excellence in the products of the mechanic and manufacturer, and the goods, wares, and merchandise of druggists and tradesmen, is a policy equally wise and just in itself and beneficial to society.

This can only be done by visiting upon the act of using false stamps, brands, moulds, labels, and trade marks, such punishment as will restrain fraudulent persons from conduct so immoral and injurious to individuals and society.

To that end your committee report the accompanying bill and recommend its passage.